



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,370	09/25/2003	Mark E. Palm	P06144US00	1859

173 7590 07/11/2007
WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

EXAMINER

PERRIN, JOSEPH L

ART UNIT	PAPER NUMBER
----------	--------------

1746

MAIL DATE	DELIVERY MODE
-----------	---------------

07/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/671,370

Applicant(s)

PALM ET AL.

Examiner

Joseph L. Perrin, Ph.D.

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 21 June 2007 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 2 & 4-7 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 4-7 & 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 4, the recitation of the disk being

“mountable” on one of the “opposite side walls” or “back wall” is new matter. The figures and text of the original disclosure only disclose the disk being mounted on the top wall. The original disclosure as filed is silent with respect with the disk being “mountable” which suggests some sort of removable or replacable configuration as well as the disk located at any position other than the top wall. Accordingly, the claimed disk language is not adequately disclosed in accordance with §112.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 4-7 & 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 4 & 15, the disk being “mountable” in the washing machine renders the claim indefinite since it is unclear whether or not the disk is being positively recited as part of the claimed dishwasher. Is the disk “mountable” as in removably mounted? Since the original disclosure appears only to describe a disk structurally mounted on the top wall the claims will be examined accordingly. However, clarification and correction are still required.

Claim Rejections - 35 USC § 102

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
8. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by EP 1232720 ("EP '720"). EP '720 discloses a conventional dishwasher having a top wall, bottom wall, side walls and door, the dishwasher having a water distribution system including a disk (12) rotatably mounted to the top wall and having an upward facing surface with plural vanes (15) forming openings at the outer periphery of the disk, and a water nozzle discrete from the disk and positioned on the top wall configured to spray a horizontal water jet (i.e. substantially perpendicular to the rotary disk axis) via nozzle openings (19) to redirect water radially outward for distribution in the washing chamber (see the abstract, Figures 1-2 and relative associated text). Accordingly, EP '720 reads on applicant's claimed invention.

Claim Rejections - 35 USC § 103

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
10. Claims 1, 4, 6, 7 & 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP '720 in view of FR 1355909 ("FR '909"). Recitation of EP '720 is repeated from the previous rejection. While EP '720 clearly shows the water nozzle and disk being discrete (see Figure 2) and positioned on the top wall, EP '720 does not expressly disclose the arrangement of the disk on the top wall and the nozzle on an adjacent wall. Thus, the difference between the claimed invention and EP '720 is the arrangement of

the disk and water nozzle as they both appear to provide the same function of redirecting water for distribution in a washing chamber. FR '909 teaches that it is known to separate a water nozzle and a spray deflecting structure to redirect water for distribution in a washing chamber and to position the nozzle on a side wall adjacent the top wall (see, for instance, Figures 1-2). Therefore, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to arrange the water nozzle and disk separate with the water nozzle positioned at a wall adjacent the top wall, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Moreover, there would be a reasonable expectation of success in arranging the nozzle in any number of configurations including the nozzle on the top wall or sidewalls adjacent the top wall while providing water to the water distribution disk since such a rearrangement would still provide the same function of spraying water from a nozzle and distributing water in the washing chamber via the disk. The Examiner notes that the record is silent with respect to secondary considerations, such as unexpected results, and the simple modification of rearranging the placement of the nozzle would appear to be an obvious modification within the level and skill generally available to one having ordinary skill in the art in order to provide the same function of redirecting water for distribution in a washing chamber.

11. Claims 2 & 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP '720 and FR '909, and further in view of EP '876 (previously cited). Recitation of EP '720 & FR '909 are repeated from the previous rejection. The combination of EP '720 &

Art Unit: 1746

FR '909 teach or suggest the claimed invention with the exception of disclosing the use of plural disks.

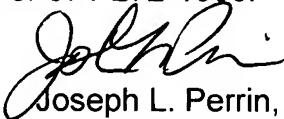
The prior art is replete with teachings of increasing water distributing means for increased cleaning in a dishwasher and is a common knowledge concept in the dishwasher art and would be common sense to one having ordinary skill in the art. For instance, EP '876 discloses a first and second water spraying means (36, 45, (fig. 2)) on the top wall of the washing chamber of a dishwasher. It would have been obvious for one skilled in the art at the time the invention was made to use a second water distribution system, as taught by EP '876, in the EP '720 dishwasher in order to arrive at the claimed dishwasher for the well understood concept of providing a dishwasher with increased water distribution for increased cleaning. Thus, duplicating the number of water distributing means to effectively improve/increase cleaning would be well within the level and knowledge generally available to one having ordinary skill in the art and is considered an obvious modification. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art and has no patentable significance unless a new and unexpected result is produced. . *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8; *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). An obviousness determination is not the result of a rigid formula disassociated from the consideration of the facts of a case. Indeed, the common sense of those skilled in the art demonstrates why some combinations would have been obvious where others would not. *Leapfrog Enterprises Inc. v. Fisher-Price Inc.*, 82 USPQ2d 1687 (Fed. Cir. 2007); see also *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (U.S. 2007).

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Joseph L. Perrin, Ph.D.
Primary Examiner
Art Unit 1746

JLP